IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2103 OF 2003

M/s. Gala Construction Co. Pvt. Ltd. ..Petitioner.
Vs.
Narayan Laxman Patil & Ors. ..Respondents.

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Mr. Jokhim Reis with Mr. Rajesh Kachare for the Petitioner.
Mr. V.A. Thorat, Senior Advocate with Mr. S.A. Abhyankar with Ms. Anjali Helekar for Respondents Nos.1 and 2.

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CORAM: DR. D.Y. CHANDRACHUD, J.

3rd August, 2006.

P.C. :

1. The Petitioner has questioned in these proceedings under Article 226 of the Constitution the legality and validity of an order passed by the Additional Commissioner, Konkan Division on 14th March, 2003 in a revision arising out of RTS proceedings.

2. The claim of the Petitioner to the immovable property in question, which admeasures 127 Acres out of Survey No.221 at Village Eksar, emanates from a consent decree dated 12th October, 1989 passed by this Court in a suit being S. C. Suit 1797 of 1981, for specific performance filed on the Original Side. The mutation

entry (M.E. 4601) in favour of Respondents 1 to 7 came to be certified on 11th May 1987. The order passed by the Sub Divisional Officer on 30th December, 2000 records that notice had been issued to the original land holder Kamlakar Narayan Samant on 16th April, 1987. The revisional authority has also noted in the course of the revisional order dated 14th March, 2003 that on 27th October, 1987 and 25th January, 1988 a letter was addressed to the original owner informing him that he had the remedy of an appeal. Be that as it may, the fact remains that between the date on which the mutation entry was certified in favour of Respondents 1 to 7 and the date of the consent decree, the original owner had not availed of the remedy of filing an appeal against the mutation entry. The Petitioner who claims to have acquired right, title and interest in respect of the property bearing Survey No.221 to the extent of 127 Acres filed a revision in 1997. Now it is a settled principle of law ever since the decision of the Supreme Court in **State of Gujarat v. Patil Raghav Natha**[1] that even where the statute does not prescribe a period of limitation for instituting a revision, a revision has to be filed within a reasonable period of time. This principle has been reiterated in subsequent decisions,

1 (1969) 2 SCC 187.

including in **Ram Chand v. Union of India**[2] and in **Mohammad Kavi Mohamad Amin v. Fatmabai Ibrahim**[3]**.** The revision that was filed by the Petitioner after a lapse of eight years of the date of the mutation entry cannot be regarded as being instituted within a reasonable period of time. That apart, it is a well settled principle of law, that having regard to Section 157 of the Maharashtra Land Revenue Code, 1966, an entry in the record of rights and a certified entry in the register of mutations shall be presumed to be proved until the contrary is proved or a new entry is lawfully substituted therefor. Revenue entries are not conclusive on questions of title. This Court particularly in the exercise of its writ jurisdiction under Article 226 of the Constitution would not be justified in entering into the disputed questions of fact that are raised on behalf of the Petitioner for challenging the foundation on the basis on which the mutation entry in favour of Respondents 1 to 7 came to be certified. The Petitioner has the remedy of instituting a substantive suit on title. For all these reasons, I am of the view that it is not a fit and proper case for the exercise of the writ jurisdiction under Article 226. The Petition is accordingly dismissed.

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2 (1994) 1 SCC 44.
3 (1997) 6 SCC 71.

Stay refused.